

INTERAGENCY CONSULTATION ROLES

With a Project-Level Conformity Emphasis

Interagency consultation in the transportation conformity process is defined in the U.S. EPA Conformity Regulations ([40 CFR 93 Subpart A](#)). [40 CFR 93.105](#) covers the basic arrangements for consultation, and can be supplemented or rewritten to some extent in a Conformity SIP to define local procedures. 40 CFR 93.[116](#) and [123](#) define the project-level hot spot analysis process for carbon monoxide (CO) and particulate matter; the process for PM has been further defined in EPA Guidance. Consultation is required for certain aspects of the particulate matter (but not the CO) hot spot analysis process.

Interagency Consultation was originally required for the RTP and TIP conformity processes, for development of the State Implementation Plan (SIP), especially the motor vehicle emission budgets, and to deal with review and substitution of TCMs. That has not changed under recent transportation reauthorizations or guidance for project-level studies. Consultation has always been available to project sponsors, but was not required until EPA defined the current PM hot spot process.

Key Participants

These agencies and groups must be or usually are involved in regional consultation for Plans, TIPs, and project-level hot spot analysis.

Federal

- FHWA, EPA – required in all cases. FHWA & EPA concurrence regarding hot spot matters (POAQC determination, acceptability of planning assumptions & models, results of detailed analyses) is normally the minimum needed to complete project-level consultation for particulate matter. FHWA issues project-level conformity determinations unless (under [23 USC 326](#)) Caltrans has been assigned authority do to that; for “326” projects, FHWA does not participate in consultation. Also, where there are both highway- and transit-related project components, FHWA will normally do the project-level conformity determination for both under terms of an agreement between FHWA and FTA.
- FTA, Federal Land Managers – participate on an as-needed basis, when projects affect their interests. For transit projects, FTA makes the project-level conformity determination. For projects that have no FHWA or FTA involvement, General Conformity applies and other procedures need to be used.

State

- Caltrans, ARB – concurrence is generally required. EPA regulations require that the State transportation and air agencies be involved in conformity consultation. Caltrans normally designates a person in a District Environmental Engineering or Planning office to provide official concurrence for “326” projects in the PM hot spot process.
- Air District – air districts in California are key participants in the SIP and conformity processes, and are treated like part of the “state air agency” for consultation purposes. Air Districts

normally prepare the SIP and develop emission budgets that are used in regional conformity analysis, and participate in the project-level (PM hot spot) consultation process.

- Other State Agencies and Land Managers – participate as needed when projects affect their interests

Regional

- MPO – required if one has jurisdiction over the area or the project (i.e. funding, inclusion in RTP/TIP, etc.). The MPO normally hosts the consultation process because it's also required for regional planning and programming decisions.
- RTPA – optional, though in “isolated rural” (no MPO) and “donut” (an MPO is present within) nonattainment and maintenance areas they can have a planning and regional modeling role similar to an MPO's.
- Transit Agency or Agencies – required for regional consultation. For projects, they normally participate if one of their projects is at issue or some other project affects their interests. Must be notified of all project-level consultation.

Others

- Consultation is a public process; the public must have access to consultation meetings. The MPO's public involvement procedures will usually govern this.
- Local agencies other than transit are of course involved if their projects are at issue or their interests are affected.

Other Project-Level Conformity Process Considerations

PROJECT-LEVEL CONFORMITY ANALYSIS, including PM hot spot consultation, is required only for projects that have Federal involvement (funding or approval): these project have a NEPA environmental document or NEPA CE approval.

PUBLIC REVIEW of the PM hot spot analysis (and the conformity analysis in general) is required for projects that use an EA/FONSI or EIS. It is normally done as part of the NEPA public review process, but needs to follow completion of consultation and PM hot spot (POAQC/not POAQC/detailed analysis) concurrence. If a project has already completed NEPA public review, separate review is needed after consultation is completed and before the project-level conformity determination is completed or updated. While the interagency consultation process is public, it does not serve as public notice for the project-level conformity analysis.

While NON-FEDERAL PROJECTS do not need consultation or any other conformity-related hot spot analysis, REGIONALLY SIGNIFICANT NON-FEDERAL PROJECTS must document compliance with [40 CFR 93.121](#): the project comes from a conforming RTP and TIP. That's usually done in the CEQA document.

CONCURRENCE BY INTERAGENCY CONSULTATION is required only for PM10 and PM2.5 hot spot analysis at this time. Carbon monoxide (CO) hot spot analysis in California follows the CO Protocol, which does not require consultation unless issues appear that need it. Project-level consultation regarding regional conformity issues is needed only if unusual issues appear, or a regionally significant project is in an “isolated rural” (no MPO) nonattainment or maintenance area (such as Nevada County) – in which case a regional conformity analysis is needed for project approval.